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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,758	03/01/2000	James R. Kurtock	5727-63370	3322
49437	7590	01/11/2006	EXAMINER	
ROCHE 11 SOUTH MERIDAN STREET INDIANAPOLIS, IN 46204			ALEXANDER, LYLE	
			ART UNIT	PAPER NUMBER
			1743	
DATE MAILED: 01/11/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/516,758	Applicant(s) KURTOCK ET AL.	
	Examiner Lyle A. Alexander	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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In response to the remarks made in the 10/31/05 Appeal Brief, the Office has reconsidered the rejection of record and will replace the 5/27/05 Final rejection with the new non-final rejection below.

Claim Rejections - 35 USC § 103

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 26-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes et al.(USP 5,371,687), Holmes et al.(USP 5,594,906) or Kelly alone or in view of Magnant et al. (USP 5,787,839) or Baumgartner (USP 5,232,796).

Holmes et al.(USP 5,371,687), Holmes et al.(USP 5,594,906) and Kelly teach health care data management systems that test a specific body fluid, process, display and store the data. These systems use a plurality of modules that have been read on the claimed ports, couplings and cradles. These references teach use of a bar code reader and teach handles to carry the units. The Holmes et al. references teach a drawer(72) that is accessible from the front left side and right side which has been read on the claimed accessible from two opposite sides of the accessory box (e.g. the left and right sides of the box are opposite each other). These references are silent to the claimed "yieldable locking positions for the handle with respect to the housing".

Handles that lock in a plurality of different positions are notoriously well known in the art. Lockable handles are advantageous because the desired position of the handle can be maintained and the handle can be locked a suitable position when not in use. Additionally, "buttons" corresponding to a particular "recess" are well known as a robust and inexpensive means for locking. The "buttons" are very user friendly and desirable for their simplicity.

It would have been within the skill of the art to modify Holmes et al.(USP 5,371,687), Holmes et al.(USP 5,594,906) or Kelly and use a handle that locks in a plurality of different positions using a button/recess means for locking to gain the above advantages.

Magnant et al. teach compartmented container with a handle that is selectively lockable. Column 3 lines 35+ teach handle(15) is pivotally connected to bosses(18,18A). Figures 6 and 6A-6B demonstrate flange(4) engaging with

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detents(62,62A) on flanges(25,25A) on the upper compartment edge. When the handle(15) is moved to the vertical position shown in figure 6B, rib(20) engages the land area(66) between detents(62,62A) to secure the compartments together. The multiple positioned handle engagement of the containers is desirable because it prevents premature separation and places the handle in a convenient position for carrying (e.g. up) and a convenient position for use (e.g. down). It would have been within the skill of the art to modify Holmes et al.(USP 5,371,687), Holmes et al.(USP 5,594,906) or Kelly in view of Magnant et al. and use a movable handle have a plurality of position determined by detents to gain the above advantages.

Baumgartner teaches a handle that has multiple locking positions. Button(20) is connected to the container(12) by shaft(22). A locking tongue(24) downwardly depends from the button(20) and cooperates with means on the handle to ensure that the handle is locked into an upright position. The connection means on the handle also include apertures(40,42) and connecting slide(44) that facilitate locking the handle in a service position. The advantage of the handle having these different locking positions is the handle is in a convenient, secure position for carrying (e.g. up) and a secure position placing the handle out of the way (e.g. down). It would have been within the skill of the art to modify Holmes et al.(USP 5,371,687), Holmes et al.(USP 5,594,906) or Kelly in view of Baumgartner and use the taught locking handle to gain the above advantages.

Response to Arguments

Applicant's arguments with respect to claims 26-36 have been considered but are moot in view of the new ground(s) of rejection.

Applicants' comment concerning the cited prior art above was that the references did not teach a yieldable locking handle with multiple positions. The Office believes the claimed yieldable locking handle is notoriously well known in the art and would have been obvious. The Office has also cited Magnant et al. (USP 5,787,839) and Baumgartner (USP 5,232,796) that both teach yieldable lockable handles and their advantages.

The references cited in the International Search Report have been considered. WO 94/24929, the abstract of JP 02/055034 and the abstract of JP 02/055033 have not been applied because this reference does not teach a handle. USP 5,865,745 has not been applied because this reference fails to teach a drawer or a multiple positioned handle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Wednesday and Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lyle A Alexander
Primary Examiner
Art Unit 1743




Jill Warden
Supervisory Patent Examiner
Technology Center 1700